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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,394	09/12/2005	Donald Glanmor Howells	UDL-102-US	3953
24390	7590	06/06/2007		
LUCASH, GESMER & UPDEGROVE, LLP 40 BROAD ST SUITE 300 BOSTON, MA 02109			EXAMINER MITCHELL, JOEL F	
			ART UNIT	PAPER NUMBER
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			06/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/528,394	Applicant(s) HOWELLS, DONALD GLANMOR	
	Examiner Joel F. Mitchell	Art Unit 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/12/2005</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1, 2, 4/1, and 4/2 are rejected under 35 U.S.C. 102(b) as being anticipated by Poindexter (US 884,416).**

3. With respect to claim 1, Poindexter discloses an implement capable of removing weeds, moss or other matter from the joints between pavements, the implement comprising an elongate handle (8) carrying a blade (5) at one end thereof. The blade appears to extend along an axis at an angle of 54° to the axis of the handle and being formed with an apex (6) at its forward end.

4. When operated in an orientation as shown in Fig. A, said elongate handle allows the user, when in standing position, to hold the implement by its handle, with said handle inclined downwardly away from the user and said blade extending forwardly at a steeper angle, with said apex of said blade engaged in a joint between pavements, and said blade being bent or folded along its longitudinal axis so that it is V-shaped or dished in cross-section (lines 38-40), with its concave side arranged, in use, to face toward the user.

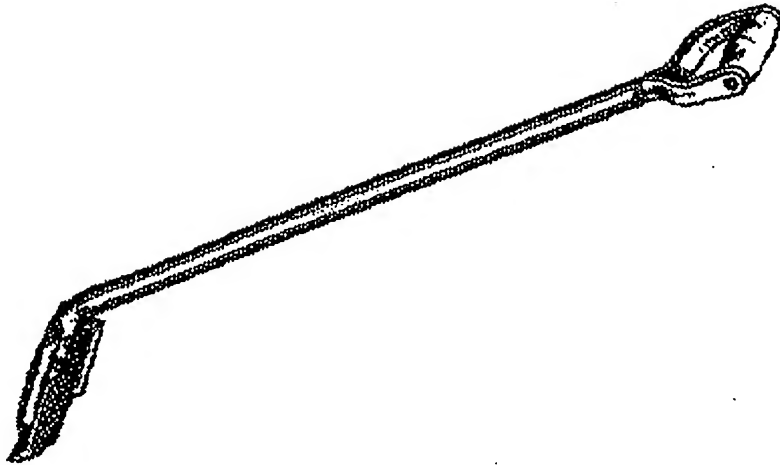


Figure A. Poindexter (US 884,416)

5. With respect to claim 2, Poindexter discloses an implement in which said apex with which said blade is formed is generally rounded (lines 41-42).
6. With respect to claims 4/1 and 4/2, Poindexter discloses an implement in which said angle of the blade axis relative to the axis of said handle is approximately 54° and therefore within the range of 30 to 55° .

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3671

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 3 and 4/3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Poindexter in view of Watson (US 834,780).

9. With respect to claim 3, Poindexter does not disclose said generally rounded apex of said blade being provided with a projecting point. Watson discloses an implement having a blade (2) with a projecting point (12).

10. Poindexter and Watson are analogous because they both disclose hand tools with elongate handles and blades formed with apexes at their forward ends. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the implement of Poindexter with the projecting point as taught by Watson in order to dig deeper into the joints surrounding pavours.

11. With respect to claim 4/3, Poindexter discloses an implement in which said angle of the blade axis relative to the axis of said handle is approximately 54° and therefore within the range of 30 to 55°.

12. Claims 5/4/1 and 5/4/2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Poindexter in view of Walker (US 5,350,021).

13. Poindexter discloses the implement with regard to claims 4/1 and 4/2, above. Poindexter does not disclose an angle of the blade axis relative to the axis of said handle in the range 35 to 45°. Walker discloses a crevice cleaning implement (10) for pavement and the like comprised of an elongated handle (14) and a V-shaped blade (12). Said handle and said blade are connected through a pivot fitting (38) and a pivot member (34) to allow a planar pivoting movement between said handle and said blade. This pivoting movement permits the blade to extend along an axis at a variable angle of 0 to 180° to the axis of the handle.

14. Poindexter and Walker are analogous because they both disclose implements with elongated handles and blades for cleaning around slabs of paving materials. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the implement of Poindexter with the pivoting capabilities between the handle and blade as taught by Walker in order to adjust the handle to users of differing heights.

15. Claim 5/4/3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Poindexter in view of Watson as applied to claim 4/3 above, and further in view of Walker.

16. Poindexter and Watson disclose the implement with regard to claim 4/3, above. They do not disclose an angle of the blade axis relative to the axis of said handle in the range 35 to 45°. Walker discloses a crevice cleaning implement (10) for pavement and the like comprised of an elongated handle (14) and a V-shaped blade (12). Said handle

and said blade are connected through a pivot fitting (38) and a pivot member (34) to allow a planar pivoting movement between said handle and said blade. This pivoting movement permits the blade to extend along an axis at a variable angle of 0 to 180° to the axis of the handle.

17. Poindexter, Watson, and Walker are analogous because they all disclose hand tools with elongate handles and blades formed with apexes at their forward ends. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the implement of Poindexter and Watson with the pivoting capabilities between the handle and blade as taught by Walker in order to adjust the handle to users of differing heights

Conclusion

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Philpott (US D236,424); Rodrigues-Quiros (US D279,540); and Bojar (US 5,285,855).

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joel F. Mitchell whose telephone number is (571) 272-7689. The examiner can normally be reached on Mon-Fri 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on (571) 272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Thomas B. Will
Supervisory Patent Examiner
Group 3600

JFM
5/30/7

Joel F. Mitchell
Examiner
Art Unit 3671